EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

Brussels, 13 June 2024
(OR. en)

2023/0077/B(COD)
LEX 2374

PE-CONS 2/1/24
REV 1

ENER 11
ENV 27
CLIMA 17
COMPET 22
CONSOM 6
FISC 3
CODEC 28

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVES (EU) 2018/2001 AND (EU) 2019/944 AS REGARDS IMPROVING THE UNION'S ELECTRICITY MARKET DESIGN

DIRECTIVE (EU) 2024/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 June 2024

amending Directives (EU) 2018/2001 and (EU) 2019/944
as regards improving the Union's electricity market design

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

---

1 OJ C 293, 18.8.2023, p. 112.
2 OJ C, C/2023/253, 26.10.2023, ELI: http://data.europa.eu/eli/C/2023/253/oj.
3 Position of the European Parliament of 11 April 2024 (not yet published in the Official Journal) and decision of the Council of 21 May 2024.

Whereas:

(1) Very high prices and volatility in electricity markets have been observed since September 2021. As set out by the European Union Agency for the Cooperation of Energy Regulators (ACER) in its final assessment of the EU wholesale electricity market design of April 2022, this is mainly a consequence of the high price of gas, which is used as an input to generate electricity.

(2) The escalation of the Russian war of aggression against Ukraine, which is a Contracting Party of the Energy Community Treaty[4], and the related international sanctions since February 2022 have led to a gas crisis, have disrupted global energy markets, have exacerbated the problem of high gas prices, and have had a significant knock-on impact on electricity prices. The Russian war of aggression against Ukraine has also caused uncertainty on the supply of other commodities, such as hard coal and crude oil, used by power-generating installations. That uncertainty has resulted in a substantial additional increase in the volatility of electricity prices. The reduced availability of several nuclear reactors and the low hydropower output have further amplified the increase in electricity prices.

[4] OJ L 198, 22.7.2006, p. 18.

(3) As a response to that situation, the Commission, in its communication of 13 October 2021 on ‘Tackling rising energy prices: a toolbox for action and support’, proposed a toolbox of measures that the Union and its Member States may use to address the immediate impact of high energy prices on household customers and businesses, including income support, tax breaks, energy savings and storage measures and to strengthen resilience to future price shocks. In its communication of 8 March 2022 on ‘REPowerEU: Joint European Action for more affordable, secure and sustainable energy’, the Commission outlined a series of additional measures to strengthen the toolbox and to respond to rising energy prices. On 23 March 2022, the Commission also established a temporary State aid framework to allow certain subsidies to soften the impact of high energy prices.

(4) In its communication of 18 May 2022 the Commission presented its ‘REPowerEU plan’, which introduced additional measures focusing on energy savings, diversification of energy supplies, increased energy efficiency target and accelerated roll-out of renewable energy aiming to reduce the Union’s dependence on Russian fossil fuels, including a proposal to increase the Union’s 2030 target for gross final consumption of renewable energy to 45 %. Furthermore, the communication of the Commission of 18 May 2022 on ‘Short-Term Energy Market Interventions and Long-Term Improvements to the Electricity Market Design – a course for action’, in addition to setting out additional short-term measures to tackle high energy prices, identified potential areas for improving the electricity market design and announced the intention to assess those areas with a view to changing the legislative framework.

(5) In order to address, urgently, the energy price crisis and security concerns and to tackle the price hikes for citizens, the Union adopted several legal acts, including Regulation (EU) 2022/1032 of the European Parliament and of the Council[5], which established a strong gas storage regime and Council Regulation (EU) 2022/1369[6], which provided for effective demand reduction measures for gas and electricity, Council Regulation (EU) 2022/1854[7], which established price limiting regimes to avoid windfall profits in both gas and electricity markets, and Council Regulation (EU) 2022/2577[8], which established measures to accelerate the permit-granting procedures for renewable energy installations.

---

5 Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (OJ L 173, 30.6.2022, p. 17).

6 Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas (OJ L 206, 8.8.2022, p. 1).

7 Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices (OJ L 261 I, 7.10.2022, p. 1).

8 Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy (OJ L 335, 29.12.2022, p. 36).

(6) A well-integrated energy market, which builds on Regulations (EU) 2018/1999[9], (EU) 2019/942[10] and (EU) 2019/943[11] of the European Parliament and of the Council, and Directives (EU) 2018/2001[12], (EU) 2018/2002[13] and (EU) 2019/944[14] of the European Parliament and of the Council, together commonly referred to as the Clean energy for all Europeans package, adopted in 2018 and 2019, allows the Union to reap the economic benefits of a single energy market in all circumstances, ensuring security of supply and sustaining the decarbonisation process to achieve the Union's climate neutrality objective. Cross-border interconnectivity also ensures a safer, more reliable and more efficient operation of power systems, and better resilience to short-term price shocks.

---

9 Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

10 Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ L 158, 14.6.2019, p. 22).

11 Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

12 Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

13 Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

14 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

(7) Strengthening the internal energy market and achieving the climate and energy transition objectives require a substantial upgrade of the Union's electricity network to be able to host vast increases of renewable generation capacity, with weather-dependent variability in generation amounts and changing electricity flow patterns across the Union, and to be able to address new demand such as electric vehicles and heat pumps. Investment in grids, within and across borders, is crucial to the proper functioning of the internal electricity market, including security of supply. Such investment is necessary to integrate renewable energy and demand in a context where they are located further apart than in the past and, ultimately, to deliver on the Union climate and energy targets. Therefore, any reform of the Union's electricity market should contribute to a more integrated European electricity network, with a view to ensuring that each Member State reaches a level of electricity interconnectivity in accordance with the electricity interconnection target for 2030 of at least 15 % pursuant to Article 4, point (d)(1), of Regulation (EU) 2018/1999, that that interconnection capacity is used as much as possible for cross-border trade and that the Union's electricity network and connectivity infrastructure are built or upgraded, such as the Union projects of common interest established pursuant to Regulation (EU) 2022/869 of the European Parliament and of the Council[15]. Adequate connectivity should be provided to all Union citizens and undertakings as this can result in major opportunities for them to participate in the energy transition and the digital transformation of the Union. Special consideration should be given to the outermost regions referred to in Article 349 of the Treaty on the Functioning of the European Union (TFEU), which recognises their specific constraints and provides for the adoption of specific measures in their regard.

---

[15] Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013 (OJ L 152, 3.6.2022, p. 45).

(8) The current electricity market design has, inter alia, helped the emergence of new and innovative products, services and measures on retail electricity markets, supporting energy efficiency and the uptake of renewable energy and enhancing choice to help consumers reduce their energy bills including through small-scale generation installations and emerging services for providing demand response. Building on and seizing the potential of the digitalisation of the energy system, such as active participation by consumers, is a key element of future electricity markets and systems in the Union. At the same time, there is a need to respect consumer choices and to allow consumers to benefit from a variety of contractual offers, and to shield household customers from high prices during an energy crisis. Energy system integration is intended to be the planning and operation of the energy system as a whole, across multiple energy carriers, infrastructures, and consumption sectors, by creating stronger links between them, in synergy with each other and supported by digitalisation with the objective of delivering secure, affordable, reliable and sustainable energy.

(9) In the context of the energy crisis, the current electricity market design has revealed a number of shortcomings and unexpected consequences linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose households and undertakings to significant price spikes and resulting effects on their electricity bills.

(10) A faster deployment of renewable energy and clean flexible technologies constitutes the most sustainable and cost-effective way of structurally reducing the demand for fossil fuels for electricity generation and enabling direct consumption of electricity through the electrification of energy demand and energy system integration. Due to their low operational costs, renewable sources can have a positive impact on electricity prices across the Union and reduce the consumption of fossil fuels.

(11) The changes to the electricity market design should ensure that the benefits from increasing renewable power deployment, and the energy transition as a whole, are brought to consumers, including the most vulnerable ones, and ultimately shield them from energy crises and avoid more household customers falling into an energy poverty trap. Those changes should mitigate the impact of high fossil fuel prices, in particular that of gas, on electricity prices, aiming to allow household customers and undertakings to reap the benefits of affordable and secure energy from sustainable renewable and low carbon sources in the longer term, as well as of energy efficient solutions in reducing overall energy costs, which may reduce the need for power grid and generation capacity expansion.

(12) The reform of the electricity market design aims to achieve affordable and competitive electricity prices for all consumers. As such, that reform should benefit not only household customers but also the competitiveness of the Union's industries by facilitating the investment in clean technology that they require to meet their net zero transition paths. The energy transition in the Union needs to be supported by a strong clean technology manufacturing basis. Those reforms will support the affordable electrification of industry and the Union's position as a global leader in terms of research and innovation in clean energy technologies.

(13) The connection of new generation and demand installations to the grid, in particular renewable energy plants, often faces delays in grid connection procedures. One of the reasons for such delays is the lack of available grid capacity at the location chosen by the investor, which entails a need for grid extensions or reinforcements to connect the installations to the system in a safe manner. A new requirement for electricity system operators, both at transmission and distribution levels, to publish and update information on the capacity available for new connections in their areas of operation would give investors easier access to information of grid capacity availability within the system and thereby accelerate decision-making which, in turn, would accelerate the required deployment of renewable energy. That information should be updated on a regular basis, at least quarterly, by distribution system operators. While Member States should be able to decide not to apply that requirement to electricity undertakings which serve less than 100 000 connected customers or which serve small isolated systems, they should encourage those undertakings to provide system users with that information once a year and should promote cooperation between distribution system operators for that purpose. Distribution system operators should also publish the criteria used to determine the available grid capacities, such as existing demand and generation capacities, the assumptions made for assessing the possible further integration of additional system users, the relevant information on possible energy curtailment, and the expectation of upcoming relevant network developments.

(14) Furthermore, to tackle the problem of lengthy reply times on requests for connection to the grid, distribution system operators should provide clear and transparent information to system users about the status and treatment of their connection requests. Distribution system operators should provide such information within three months of the date of submission of the request and should update it on a regular basis, at least quarterly.

(15) In areas where electricity grids have limited or no network capacity, network users requesting grid connection should be able to benefit from establishing a non-firm, flexible connection agreement. That connection agreement would, for example, take into account energy storage or limit the times in which a generation power plant can inject electricity to the grid or the capacity that can be exported, enabling its partial connection. System operators should offer the possibility of establishing flexible connection agreements in such areas. The regulatory authority or another competent authority where a Member State has so provided, should develop frameworks for system operators to establish such flexible connections, ensuring that network reinforcements that provide the structural solutions are prioritised, connection agreements are made firm as soon as the networks are ready, flexible connections are enabled as a permanent solution for areas where network reinforcement is not efficient and, to the extent possible, give visibility to the network users requesting grid connection on the expected curtailment levels under the flexible connection agreement.

(16) During the energy crisis, consumers were exposed to extremely volatile wholesale energy prices and had limited opportunities to engage in the energy market. Consequently, many household customers have been facing financial difficulties and have been unable to pay their bills. Vulnerable customers and customers affected by energy poverty were hit hardest, but middle-income household customers were also exposed to such difficulties. High energy prices could also have a negative impact on the health, well-being and overall quality of life of consumers. It is therefore important to improve consumer rights and protection, allowing consumers to benefit from the energy transition, decouple their electricity bills from short-term price movements on energy markets and rebalance the risk between suppliers and consumers.

(17) Consumers should have access to a wide range of offers so that they can choose a contract that corresponds to their needs. However, suppliers have reduced their offers, fixed-term, fixed-price electricity supply contracts have become scarce, and the choice of offers has become limited. Consumers should always have the possibility to opt for an affordable fixed-price, fixed-term electricity supply contract and suppliers should not be able to unilaterally modify contractual terms and conditions or to terminate the contract before it reaches its maturity. Nevertheless, dynamic price contracts remain essential and an increasing penetration of renewable energy sources can help consumers to reduce their energy bills. Member States should be able to exempt suppliers with more than 200 000 final customers who offer only dynamic price contracts from the obligation to offer fixed-term, fixed-price electricity supply contracts, provided that such an exemption does not have a negative impact on competition and retains sufficient choice of fixed-term, fixed-price electricity supply contracts.

(18) When suppliers do not ensure that their electricity portfolio is sufficiently hedged, changes in wholesale electricity prices can leave them financially at risk and can result in their failure and their passing on costs to consumers and other network users. Hence, suppliers should be appropriately hedged when offering fixed-term, fixed-price electricity supply contracts. An appropriate hedging strategy should take into account the suppliers' access to its own generation and its capitalisation as well as its exposure to changes in wholesale market prices, the size of the supplier or the market structure. The existence of appropriate hedging strategies can be ensured by general rules overseen without undertaking a specific review of the positions or strategies of individual suppliers. Stress tests and reporting requirements on suppliers could be tools by which to assess supplier hedging strategies.

(19) Consumers should be able to choose the supplier which offers them the price and service which best suits their needs. Advances in metering and sub-metering technology combined with information and communication technology make it technically possible to have multiple suppliers for individual premises. Customers should be able to choose a separate supplier in particular for electricity to power appliances such as heat pumps or electric vehicles which have a particularly high consumption or which also have the capability to shift their electricity consumption automatically in response to price signals. To that end, customers should be allowed to have more than one metering and billing point covered by the single connection point for their premises, allowing different appliances to be metered and supplied separately. Metering points should be clearly distinguished from each other and should comply with applicable technical rules. The rules for the allocation of the associated costs should be determined by the Member States. Some smart metering systems are able to directly cover more than one metering point and therefore enable customers to have more than one electricity supply contract or energy sharing agreement at the same time. Suppliers should have balancing responsibility only for metering and billing points to which they supply. Moreover, by enabling the use of dedicated measurement solutions, attached to or embedded in appliances with flexible, controllable loads, final customers can participate in other incentive-based demand response schemes that provide flexibility services on the electricity market and to transmission system operators and distribution system operators. Overall, such arrangements should be compatible with energy sharing and should contribute to the increased uptake of demand response and to consumer empowerment, thereby allowing customers to have more control over their energy use and bills, while providing the electricity system with additional flexibility in order to cope with supply and demand fluctuations.

(20) Due to the increasing complexity of energy offers and different marketing practices, consumers often find it difficult to fully understand the implications of suppliers' offers or the contract that they sign. In particular, there is often a lack of clarity on how the price is set, the conditions for the renewal of a contract, the consequences of terminating a contract or the reasons for changing terms and conditions by the supplier. Therefore, suppliers or market participants engaged in aggregation should provide the key information about energy offers to consumers in a concise and easily understandable manner prior to the conclusion or extension of a contract.

(21) To ensure continuity of supply for consumers, particularly in cases of supplier failure, Member States should have in place a supplier-of-last-resort regime. It should be possible to appoint the supplier of last resort either before or at the moment of supplier failure. Such a supplier of last resort may be treated as a provider of universal service. A supplier of last resort might be the sales division of a vertically integrated undertaking which also performs distribution functions, provided that it meets the unbundling requirements of Directive (EU) 2019/944. However, this does not imply an obligation of Member States to supply at a certain fixed minimum price. Where a Member State obliges a supplier of last resort to supply electricity to a customer who does not receive market-based offers, the conditions set out in Article 5 of Directive (EU) 2019/944 apply and the obligation can involve a regulated price only to the extent that the customer is entitled to benefit from regulated prices. When assessing whether offers received by non-household customers are market-based, Member States should take into account the individual commercial and technical circumstances. Where, before ... [the date of entry into force of this Directive], a Member State has already appointed a supplier of last resort through a fair, transparent and non-discriminatory procedure, it is not necessary to launch a new procedure for appointing the supplier of last resort.

(22) Energy sharing can create resilience to the effects of high and volatile wholesale market prices on consumers' energy bills, empowers a wider group of consumers that do not otherwise have the option of becoming an active customer due to financial or spatial constraints, such as vulnerable customers and customers affected by energy poverty, and leads to increased uptake of renewable energy by mobilising additional private capital investment and diversifying remuneration pathways. With the integration of appropriate price signals and storage facilities, electricity sharing can contribute to laying the foundation to help tap into the flexibility potential of smaller consumers. The provisions on energy sharing laid down in this Directive complement the provisions concerning self-consumption laid down in Article 21 of Directive (EU) 2018/2001 and in Article 15 of Directive (EU) 2019/944, in particular with respect to collective self-consumption.

(23) Active customers that own, lease or rent a storage or generation facility should have the right to share excess production for a price or free of charge and to empower other consumers to become active customers, or to share the renewable energy generated or stored by jointly leased, rented or owned facilities, of up to 6 MW capacity, directly or through a third-party organiser. In the case of customers participating in energy sharing schemes larger than small and medium-sized enterprises, the size of the installed capacity of the generation facility associated to the energy sharing scheme should be of a maximum of 6 MW and the energy sharing should take place within a local or limited geographical area, as defined by Member States. Any payment for the sharing of excess production for a price can either be settled directly between active customers or automated through a peer-to-peer trading platform. Energy sharing arrangements are either based on private contractual agreement between active customers or organised through a legal entity.
A legal entity that incorporates the criteria of a renewable energy community as defined in Article 2, point (16), of Directive (EU) 2018/2001 or a citizen energy community as defined in Article 2, point (11), of Directive (EU) 2019/944 could share with their members electricity generated from facilities they have in full ownership. The protection and empowerment framework for energy sharing should pay particular attention to vulnerable customers and customers affected by energy poverty.

(24) Energy sharing operationalises the collective consumption of self-generated or stored electricity injected into the public grid by more than one jointly acting active customers. Member States should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain time frame of customer's total metered consumption with self-generated or stored renewable energy which is deducted from the total consumption for the purpose of calculating the energy component of the energy bill issued by the supplier and thereby reducing the customer's bill. The output of those facilities should be distributed among the aggregated consumer load profiles based on static, variable or dynamic calculation methods that can be pre-defined or agreed upon by the active customers. Active customers engaged in energy sharing are financially responsible for the imbalances that they cause, without prejudice to the possibility for active customers to delegate their balancing responsibilities to other market participants. All consumer rights and obligations set out in Directive (EU) 2019/944 apply to final customers involved in energy sharing schemes. However, households with an installed capacity up to 10,8 kW for single households and up to 50 kW for multi-apartment blocks should not be required to comply with supplier obligations. Member States should be able to adjust those thresholds to reflect national circumstances, up to 30 kW for single households and to between 40 kW and 100 kW for multi-apartment blocks.

(25) Plug-in mini-solar systems could, together with other systems and technologies, contribute to the increased uptake of renewable energy and citizen engagement in the energy transition. Member States should be able to promote the introduction of those systems to reduce the administrative and technical burden. Regulatory authorities should be able to set the network tariffs for the injection of electricity coming from plug-in mini-solar systems or to establish the methodology for calculating those tariffs. Depending on the situation in a Member State, it would be possible for the tariffs to be very low or even zero, while being cost-reflective, transparent and non-discriminatory.

(26) Vulnerable customers and customers affected by energy poverty should be adequately protected from electricity disconnections and should, as well, not be put in a position that forces them to disconnect. Member States should therefore ensure that vulnerable customers and customers affected by energy poverty are fully protected from electricity disconnections, by taking the appropriate measures, including the prohibition of disconnections or other equivalent actions. There are multiple tools and good practices available to Member States which include, but are not limited to, year-round or seasonal disconnection prohibitions, debt prevention and sustainable solutions to support customers in hardship paying for their energy bills. The role of suppliers and all relevant national authorities to identify appropriate measures, in both the short and the long-term, which should be made available to vulnerable customers and customers affected by energy poverty to manage their energy use and costs remains essential, and suppliers and relevant national authorities should cooperate closely with social security authorities.

(27) Consumers have the right to use complaint procedures managed by their suppliers as well as out-of-court dispute settlement procedures, in order to benefit from the effective enforcement of their rights and not to be disadvantaged in the case of disagreements with suppliers, in particular regarding bills or the amount due. Where customers use those procedures, suppliers should not terminate contracts on the basis of the facts which are still in dispute. Suppliers and customers should continue to meet their contractual rights and obligations, in particular to supply electricity and to pay for that electricity and complaint procedures should not become the ground for abuses that allow customers not to honour their contractual obligations, including paying their bills. Member States should put in place appropriate measures to avoid that those complaint or out-of-court dispute settlement procedures are used in a distorted way.

(28) Public interventions in price setting for the supply of electricity would constitute, in principle, a market-distortive measure. Such interventions should therefore be carried out only where appropriate and as public service obligations and should be subject to specific conditions. Under this Directive, regulated prices are possible for vulnerable customers and customers affected by energy poverty, including below costs, and, as a transition measure, for household customers and microenterprises whether or not there is an electricity price crisis. During an electricity price crisis, when wholesale and retail electricity prices increase significantly, Member States should be allowed to temporarily extend the application of regulated prices to small enterprises and medium-sized enterprises. As regards household customers and small enterprises and medium-sized enterprises, Member States should, exceptionally and temporarily, be allowed to set regulated prices below cost during an electricity price crisis provided that this does not create distortions between suppliers and that suppliers are compensated for the costs of supplying below cost. However, it is necessary to ensure that such price regulation is targeted and does not create incentives to increase consumption. Therefore, such exceptional and temporary extension of price regulation should be limited to 80 % of median household consumption for household customers and to 70 % of the previous year's consumption for small enterprises and medium-sized enterprises. The Council should be able, acting on a proposal from the Commission, by means of an implementing decision, to declare a regional or Union-wide electricity price crisis. The assessment of whether such an electricity price crisis exists should be based on a comparison with prices in times of normal market operation and therefore should exclude the impact of previous electricity price crises declared pursuant to this Directive.

Such implementing decision should also specify the period of validity of the declaration of an electricity price crisis, during which the temporary extension of regulated prices applies. That period should not be longer than one year. Where the conditions for that electricity price crisis declaration continue to be fulfilled, it should be possible for the Council, acting on a proposal from the Commission, to extend the period of validity of the implementing decision. The conferral of implementing powers on the Council is justified given the significant horizontal implications for Member States of a decision declaring an electricity price crisis and thereby to trigger the extended possibilities for public interventions in price setting for the supply of electricity. Such implications are significant in terms both of the number of customers concerned and of the importance of the categories of such customers. The conferral of implementing powers on the Council also adequately takes into account the political nature of such a decision declaring an electricity price crisis, which requires a delicate balancing of different policy considerations central to Member States' decision to implement price-setting for energy. In the case of vulnerable customers and customers affected by energy poverty, the price regulation applied by Member States could cover 100 % of the price in accordance with Article 5 of Directive (EU) 2019/944. In any event, the declaration of a regional or Union-wide electricity price crisis should ensure a level playing field across all Member States affected by the decision so that the internal market is not unduly distorted.

(29) Member States should be able to provide support, in compliance with Articles 107 and 108 TFEU, for additional electricity costs of industrial customers in times of electricity crisis and exceptionally severe increases of prices.

(30) Since Estonia, Latvia and Lithuania are not yet synchronised with the Union electricity system, they face very specific challenges when organising balancing markets and the market-based procurement of ancillary services. While progress towards synchronisation is ongoing, one of the critical prerequisites for stable synchronous system operation is the availability of sufficient balancing capacity reserves for frequency regulation. However, being dependent on the Russian synchronous area for frequency management, the Baltic States were not yet in the position to develop their own functioning balancing market. The Russian war of aggression against Ukraine has substantially increased the risk for security of supply resulting from the absence of own balancing markets. Estonia, Latvia and Lithuania should therefore be exempt from the requirements of certain provisions of Article 40(4) and Article 54(2) of Directive (EU) 2019/944 insofar as that is necessary to ensure system security for a transitional period. The transitional periods for Estonia, Latvia and Lithuania should be phased out as soon as possible after the synchronisation, and should be used to develop the appropriate market instruments that offer short-term balancing reserves and other indispensable ancillary services, and should be limited to the time necessary for that process.

(31) Considering that the Cypriot transmission system is not connected to that of any other Member State, Cyprus faces very specific challenges when organising balancing markets and the market-based procurement of ancillary services. Cyprus should therefore be exempt from the requirements of Article 40(4) and Article 54 (2) of Directive (EU) 2019/944 insofar as that is necessary to ensure system security for a transitional period, namely until the Cypriot transmission system is connected to that of other Member States via interconnectors.

(32) This Directive establishes a legal basis for the processing of personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council[16]. Member States should ensure that all principles and obligations relating to processing of personal data laid down in Regulation (EU) 2016/679 are met, including on data minimisation. Where the objective of this Directive can be achieved without the processing of personal data, data controllers should rely on anonymised and aggregated data.

(33) To the extent that any of the measures provided for in this Directive constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU. The Commission is competent to assess the compatibility of State aid with the internal market.

(34) Directives (EU) 2018/2001 and (EU) 2019/944 and should therefore be amended accordingly.

(35) Since the objective of this Directive, namely to improve the design of the integrated electricity market, in particular to prevent unduly high electricity prices, cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

---

[16] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Article 1

Amendment to Directive (EU) 2018/2001

In Directive (EU) 2018/2001, Article 4(3), the second subparagraph is replaced by the following:

‘To that end, with regard to direct price support schemes, support shall be granted in the form of a market premium, which could be, inter alia, sliding or fixed.

The second subparagraph of this paragraph shall not apply to support for electricity from the sources listed in Article 19d(4) of Regulation (EU) 2019/943, to which Article 19d(1) of that Regulation applies.’.

Article 2

Amendments to Directive (EU) 2019/944

Directive (EU) 2019/944 is amended as follows:

(1) Article 2 is amended as follows:

(a) point (8) is replaced by the following:

‘(8) “active customer” means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or self-generated or shared electricity within other premises, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity;’;

(b) the following point is inserted:

‘(10a) “energy sharing” means the self-consumption by active customers of renewable energy either:

(a) generated or stored offsite or on sites between them by a facility they own, lease or rent in whole or in part; or

(b) the right to which has been transferred to them by another active customer for a price or free of charge;’;

(c) the following point is inserted:

‘(15a) “fixed-term, fixed-price electricity supply contract” means an electricity supply contract between a supplier and a final customer that guarantees that the contractual terms and conditions, including the price, remain unchanged for the duration of the contract, while it may, within a fixed price, include a flexible element with for example peak and off-peak price variations, and where changes in the resulting bill can only result from elements that are not determined by suppliers, such as taxes and levies;’;

(d) the following points are inserted:

‘(24a) “supplier of last resort” means a supplier who is designated to take over the supply of electricity to customers of a supplier which has ceased to operate;

(24b) “energy poverty” means energy poverty as defined in Article 2, point (52), of Directive (EU) 2023/1791 of the European Parliament and of the Council*;

(24c) “flexible connection agreement” means a set of agreed conditions for connecting electrical capacity to the grid that includes conditions to limit and control the electricity injection to and withdrawal from the transmission network or distribution network;

---

* Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955 (OJ L 231, 20.9.2023, p. 1).’;

(e) point (31) is replaced by the following:

‘(31) “energy from renewable sources” or “renewable energy**”** means energy from renewable sources or renewable energy as defined in Article 2, point (1), of Directive (EU) 2018/2001;’;

(2) Article 4 is replaced by the following:

‘*Article 4*
Free choice of supplier

Member States shall ensure that all customers are free to purchase electricity from suppliers of their choice. Member States shall ensure that all customers are free to have more than one electricity supply contract or energy sharing agreement at the same time, and that, for that purpose, customers are entitled to have more than one metering and billing point covered by the single connection point for their premises. Where technically feasible, smart metering systems deployed in accordance with Article 19 may be used to allow customers to have more than one electricity supply contract or more than one energy sharing agreement at the same time.’;

(3) the following article is inserted:

‘*Article 6a*
Flexible connection agreements

1. The regulatory authority or another competent authority where a Member State has so provided shall develop a framework for transmission system operators and distribution system operators to offer the possibility of establishing flexible connection agreements in areas where there is limited or no network capacity availability for new connections as published in accordance with Article 31(3) and Article 50(4a), first subparagraph, of Regulation (EU) 2019/943. That framework shall ensure that:

   (a) as a general rule, flexible connections do not delay the network reinforcements in the identified areas;

(b) a conversion from flexible to firm connection agreements once the network is developed is ensured on the basis of established criteria; and

(c) for areas where the regulatory authority or another competent authority where a Member State has so provided, deems network development not to be the most efficient solution, enable, where relevant, flexible connection agreements as a permanent solution, including for energy storage.

2. The framework referred to in paragraph 1 may ensure that flexible connection agreements specify at least the following:

(a) the maximum firm injection and withdrawal of electricity from and to the grid, as well as the additional flexible injection and withdrawal capacity that can be connected and differentiated by time blocks throughout the year;

(b) the network charges applicable to both the firm and flexible injection and withdrawal capacities;

(c) the agreed duration of the flexible connection agreement and the expected date for granting connection to the entire requested firm capacity.

The system user connecting through a flexible grid connection shall be required to install a power control system that is certified by an authorised certifier.';

(4) Article 11 is amended as follows:

(a) the title is replaced by the following:

‘Entitlement to a fixed-term, fixed-price electricity supply contract and to a dynamic electricity price contract;’;

(b) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price electricity supply contracts and dynamic electricity price contracts. Member States shall ensure that final customers who have a smart meter installed can request to conclude a dynamic electricity price contract and that all final customers can request to conclude a fixed-term, fixed-price electricity supply contract with a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers.

By way of derogation from the first subparagraph, Member States may exempt a supplier with more than 200 000 final customers from the obligation to offer fixed-term, fixed-price electricity supply contracts, where:

(a) the supplier offers only dynamic price contracts;

(b) the exemption does not have a negative impact on competition; and

(c) there remains a sufficient choice of fixed-term, fixed-price electricity supply contracts for final customers.

Member States shall ensure that suppliers do not unilaterally modify the terms and conditions of fixed-term, fixed-price electricity supply contracts and do not terminate such contracts before they reach their maturity.';

(c) the following paragraphs are inserted:

'1a. Prior to the conclusion or extension of any contract referred to in paragraph 1 of this Article, final customers shall be provided with a summary of the key contractual terms and conditions in a prominent manner and in clear and concise language. That summary shall set out the rights referred to in Article 10(3) and (4) and shall include at least the following information:

(a) the total price and its breakdown;

(b) an explanation as to whether the price is fixed, variable or dynamic;

(c) the supplier's email address and the details of a consumer support hotline; and

(d) where relevant, information on one-time payments, promotions, additional services and discounts.

The Commission shall provide guidance in that regard.

1b. Member States shall ensure that final customers with fixed-term, fixed-price electricity supply contracts are not excluded from their participation, when they so decide, in demand response and energy sharing and from actively contributing to the achievement of the national electricity system flexibility needs.';

(d) paragraph 2 is replaced by the following:

'2. Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of the respective types of electricity supply contracts, and that suppliers are required to provide information to the final customers accordingly, including with regard to the need to have an adequate electricity meter installed. Regulatory authorities shall:

(a) monitor the market developments and assess the risks that the new products and services may entail and address abusive practices;

(b) take appropriate measures where impermissible termination fees are identified in accordance with Article 12(3).';

(5) the following article is inserted:

‘*Article 15a*

Right to energy sharing

1. Member States shall ensure that all households, small enterprises and medium-sized enterprises, public bodies and, where a Member State has so decided, other categories of final customer have the right to participate in energy sharing as active customers in a non-discriminatory manner, within the same bidding zone or a more limited geographical area, as determined by that Member State.

2. Member States shall ensure that active customers are entitled to share renewable energy between themselves based on private agreements or through a legal entity. Participation in energy sharing shall not constitute the primary commercial or professional activity of active customers engaged in energy sharing.

3. Active customers may appoint a third party as an energy sharing organiser for the purposes of:

   (a) communicating about the energy sharing arrangements with other relevant entities, such as suppliers and network operators, including on aspects related to the applicable tariffs and charges, taxes or levies;.

   (b) providing support for managing and balancing behind-the-meter flexible loads, distributed renewable energy generation and storage facilities that are part of the relevant energy sharing arrangement;

(c) contracting and billing active customers that participate in energy sharing;

(d) installation and operation, including metering and maintenance, of the renewable energy generation or storage facility.

The energy sharing organiser or another third party may own or manage a storage or renewable energy generation facility of up to 6 MW, without being considered to be an active customer, except where it is one of the active customers participating in the energy sharing project. The energy sharing organiser shall provide non-discriminatory services and transparent prices, tariffs, and terms of services. With regard to the first subparagraph, point (c), of this paragraph, Articles 10, 12 and 18 shall apply. Member States shall lay down the regulatory framework for the application of this paragraph.

4. Member States shall ensure that active customers participating in energy sharing:

(a) are entitled to have the shared electricity injected into the grid deducted from their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable non-discriminatory taxes, levies and cost-reflective network charges;

(b) benefit from all consumer rights and obligations as final customers under this Directive;

(c) are not required to comply with supplier obligations, where renewable energy is shared between households with an installed capacity up to 10,8 kW for single households and up to 50 kW for multi-apartment blocks;

(d) have access to voluntary template contracts with fair and transparent terms and conditions for energy sharing agreements;

(e) in the event of a conflict arising from an energy-sharing agreement, have access to out-of-court dispute settlement with other participants in the energy sharing agreement in accordance with Article 26;

(f) are not subject to unfair and discriminatory treatment by market participants or their balance responsible parties;

(g) are informed of the possibility of changes in bidding zones in accordance with Article 14 of Regulation (EU) 2019/943 and of the fact that the right to share renewable energy is restricted in accordance with paragraph 1 of this Article;

(h) notify energy sharing arrangements to the relevant system operators and market participants, including the relevant suppliers either directly or through an energy sharing organiser.

Member States may adapt the thresholds referred to in point (c) of the first subparagraph in accordance with the following:

(a) in the case of single households, the threshold may be increased up to 30 kW;

(b) in the case of multi-apartment blocks the threshold may be increased up to 100 kW or, in the case of duly justified specific circumstances due to a reduced average size of multi-apartment blocks, decreased to a minimum of 40 kW.

5. Where other categories of final customer participating in energy sharing schemes are larger than small and medium-sized enterprises, the following additional conditions shall apply:

(a) the size of the installed capacity of the generation facility associated with the energy sharing scheme is to be a maximum of 6 MW;

(b) the energy sharing takes place within a local or limited geographical area, as defined by the Member State concerned.

6. Member States shall ensure that relevant transmission system operators or distribution system operators or other designated bodies:

(a) monitor, collect, validate and communicate metering data related to the shared electricity with relevant final customers and market participants at least every month, and in accordance with Article 23, and for that purpose, put in place the appropriate IT systems;

(b) provide a relevant contact point to:

(i) register energy sharing arrangements;

(ii) make available practical information for energy sharing;

(iii) receive information on relevant metering points, changes in location and participation; and

(iv) where applicable, validate calculation methods in a clear, transparent and timely manner.

7. Member States shall take appropriate and non-discriminatory measures to ensure that vulnerable customers and customers affected by energy poverty can access energy sharing schemes. Those measures may include financial support measures or production allocation quota.

8. Member States shall ensure that energy sharing projects owned by public authorities make the shared electricity accessible to vulnerable or energy poor customers or citizens. When doing so, Member States shall do their utmost to promote that the amount of that accessible energy is at least 10 % on average of the energy shared.

9. Member States may promote the introduction of plug-in mini-solar systems of up to 800 W capacity in and on buildings.

10. The Commission shall provide guidance to the Member States without increasing the administrative burden in order to facilitate the establishment of a standardised approach with regard to energy sharing and ensure a level playing field for renewable energy communities and citizen energy communities.

11. This Article shall be without prejudice to the right of customers to choose their supplier in accordance with Article 4 and to applicable national rules on the authorisation of suppliers.';

(6) the following article is inserted:

'*Article 18a*
Supplier risk management

1. Regulatory authorities or, where a Member State has designated an alternative independent competent authority for that purpose, such a designated competent authority, taking into account the size of the supplier or the market structure and including, if relevant, by carrying out stress tests shall ensure that suppliers:

   (a) have in place and implement appropriate hedging strategies, to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets;

   (b) take all reasonable steps to limit their risk of supply failure.

2. Supplier hedging strategies may include the use of power purchase agreements as defined in Article 2, point (77), of Regulation (EU) 2019/943 or other appropriate instruments, such as forward contracts. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.

3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities and to put in place enabling conditions for that purpose.';

(7) in Article 27, paragraph 1 is replaced by the following:

'1. Member States shall ensure that all household customers, and, where Member States consider it to be appropriate, small enterprises, enjoy universal service, namely the right to be supplied with electricity of a specified quality within their territory at competitive, easily and clearly comparable, transparent and non-discriminatory prices. To ensure the provision of universal service, Member States shall impose on distribution system operators an obligation to connect customers to their network under terms, conditions and tariffs set in accordance with the procedure laid down in Article 59(7). This Directive shall not prevent Member States from strengthening the market position of household customers and small and medium-sized non-household customers by promoting the possibilities for the voluntary aggregation of representation for that class of customers.';

(8) the following article is inserted:

‘*Article 27a*

Supplier of last resort

1. Where Member States have not already put in place a regime with regard to suppliers of last resort, they shall introduce such a regime to ensure continuity of supply at least for household customers. Suppliers of last resort shall be appointed in a fair, transparent and non-discriminatory procedure.

2. Final customers who are transferred to suppliers of last resort shall continue to benefit from all of their rights as customers as laid down in this Directive.

3. Member States shall ensure that suppliers of last resort communicate their terms and conditions to transferred customers without delay and ensure a seamless continuity of service for those customers for a period needed to find a new supplier, and at least six months.

4. Member States shall ensure that final customers are provided with information and encouragement to switch to a market-based offer.

5. Member States may require a supplier of last resort to supply electricity to household customers and small enterprises and medium-sized enterprises who do not receive market-based offers. In such cases, the conditions set out in Article 5 shall apply.’;

(9) the following article is inserted:

‘*Article 28a*

Protection from disconnections

1. Member States shall ensure that vulnerable customers and customers affected by energy poverty are fully protected from electricity disconnections, by taking the appropriate measures, including the prohibition of disconnections or other equivalent actions. Member States shall provide such protection as part of their policy with regard to vulnerable customers pursuant to Article 28(1) and without prejudice to the measures set out in Article 10(11).

   When notifying the Commission of their transposition measures of this Directive, Member States shall explain the relationship between the first subparagraph and the corresponding parts of national transposition instruments.

2. Member States shall ensure that suppliers do not terminate contracts and do not disconnect customers on the grounds on which customers have submitted a complaint in accordance with Article 10(9) or which are subject to an out-of-court dispute settlement mechanism in accordance with Article 26. Such a complaint or the use of such a mechanism shall not affect the parties’ contractual rights and obligations. Member States may take appropriate measures to avoid an abuse of process.

3. Member States shall take appropriate measures referred to in paragraph 1 to enable customers to avoid disconnection, which may include:

(a) promoting voluntary codes for suppliers and customers on preventing and managing cases of customers in arrears; those arrangements may concern support for customers in managing their energy use and costs, including flagging unusual high energy spikes or use in winter and summer seasons, offering appropriate flexible payment plans, debt advice measures, self-metering readings, and improved communication with customers and support agencies;

(b) promoting customers' education and awareness of their rights with regard to debt management;

(c) access to finance, vouchers or subsidies to support the payment of bills;

(d) encouraging and facilitating the provision of meter readings every three months, or where relevant for shorter billing periods, where a system of regular self-reading by the final customer has been implemented to meet the obligations of points 2(a) and (b) of Annex I in relation to the frequency of billing and the provision of billing information.';

(10) in Article 31, paragraphs 2 and 3 are replaced by the following:

‘2. In any event, the distribution system operator shall not discriminate between system users or classes of system users, including renewable energy communities and citizen energy communities, in particular in favour of its related undertakings.

3. Distribution system operators shall provide system users with the information they need for efficient access to, and use of, the system. In particular, distribution system operators shall publish in a transparent manner clear information on the capacity available for new connections in their area of operation with high spatial granularity, respecting public security and data confidentiality, including the capacity under connection request and the possibility of flexible connection in congested areas. The publication shall include information on the criteria for the calculation of the available capacity for new connections. Distribution system operators shall update that information on a regular basis, at least quarterly.

Distribution system operators shall provide in a transparent manner clear information to system users about the status and treatment of their connection requests. They shall provide such information within three months of the submission of the request. Where the requested connection is neither granted nor permanently rejected, distribution system operators shall update that information on a regular basis, at least quarterly.

3a. Distribution system operators shall provide system users the option to request grid connection and submit relevant documents exclusively in digital form.

3b. Member States may decide not to apply paragraph 3 to integrated electricity undertakings which serve fewer than 100 000 connected customers, or which serve small isolated systems. Member States may apply a threshold lower than that of 100 000 connected customers.

Member States shall encourage integrated electricity undertakings which serve fewer than 100 000 connected customers to provide system users with the information referred to in paragraph 3 once a year and promote cooperation between distribution system operators for that purpose.';

(11) in Article 33, paragraph 1 is replaced by the following:

'1. Without prejudice to Directive 2014/94/EU of the European Parliament and of the Council*, Member States shall provide the necessary regulatory framework to facilitate the connection of publicly accessible and private recharging points with smart charging functionalities and bidirectional charging functionalities in accordance with Article 20a of Directive (EU) 2018/2001 to the distribution networks. Member States shall ensure that distribution system operators cooperate on a non-discriminatory basis with any undertaking that owns, develops, operates or manages recharging points for electric vehicles, including with regard to connection to the grid.

---

* Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).';

(12) Article 59 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) in close coordination with the other regulatory authorities, ensuring the compliance of the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719*, the ENTSO for Electricity and the EU DSO entity with their obligations under this Directive, Regulation (EU) 2019/943, the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943, and other relevant Union law, including as regards cross-border issues, as well as with ACER’s decisions, and jointly identifying non-compliance of the single allocation platform, the ENTSO for Electricity and the EU DSO entity with their respective obligations; where the regulatory authorities have not been able to reach an agreement within a period of four months after the start of consultations for the purpose of jointly identifying non-compliance, the matter shall be referred to the ACER for a decision, pursuant to Article 6(10) of Regulation (EU) 2019/942;

---

* Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).’;

(ii) point (z) is replaced by the following:

‘(z) monitoring the removal of unjustified obstacles to and restrictions on the development of consumption of self-generated electricity, energy sharing, renewable energy communities and citizen energy communities, including obstacles and restrictions preventing the connection of flexible distributed energy generation within a reasonable time in accordance with Article 58, point (d).’;

(b) paragraph 4 is replaced by the following:

‘4. The regulatory authority located in the Member State in which the single allocation platform, the ENTSO for Electricity or the EU DSO entity has its seat shall have the power to impose effective, proportionate and dissuasive penalties on those entities where they do not comply with their obligations under this Directive, Regulation (EU) 2019/943 or any relevant legally binding decisions of the regulatory authority or of ACER, or to propose that a competent court impose such penalties.’;

(13) in Article 66, the following paragraphs are added:

‘6. By way of derogation from Article 40(4), the transmission system operators in Estonia, Latvia and Lithuania shall be able to rely on balancing services provided by domestic electricity storage providers, transmission system operators related undertakings, and other facilities owned by transmission system operators.

By way of derogation from Article 54(2), Estonia, Latvia and Lithuania may allow their transmission system operators and transmission system operators related undertakings to own, develop, manage and operate energy storage facilities without following an open, transparent and non-discriminatory tendering procedure and may allow such energy storage facilities to buy or sell electricity in the balancing markets.

The derogations referred to in the first and second subparagraphs shall apply for up to three years after Estonia, Latvia and Lithuania have joined the Continental Europe Synchronous Area. Where necessary to preserve security of supply, the Commission may grant an extension of the initial three-year period by a maximum of five years.

7. By way of derogation from Article 40(4) and Article 54(2), Cyprus may allow its transmission system operator to own, develop, manage and operate energy storage facilities without following an open, transparent and non-discriminatory tendering procedure.

The derogation referred to in the first subparagraph shall apply until the transmission system in Cyprus is connected to other Member States’ transmission systems via interconnection.’;

(14) the following article is inserted:

‘*Article 66a*

Access to affordable energy during an electricity price crisis

1. The Council may, acting on a proposal from the Commission, by means of an implementing decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:

   (a) the existence of very high average prices in wholesale electricity markets of at least two and a half times the average price during the previous five years, and at least 180 EUR/MWh which is expected to continue for at least six months, the calculation of the average price during the previous five years not taking into account those periods where a regional or Union-wide electricity price crisis was declared;

   (b) sharp increases in electricity retail prices in the range of 70 % occur which are expected to continue for at least three months.

2. The implementing decision referred to in paragraph 1 shall specify its period of validity which may be for a period of up to one year. That period may be extended in accordance with the procedure laid down in paragraph 8 for consecutive periods of up to one year.

3. The declaration of a regional or Union-wide electricity price crisis pursuant to paragraph 1 shall ensure a fair competition and trade across all Member States affected by the implementing decision so that the internal market is not unduly distorted.

4. Where the conditions laid down in paragraph 1 are fulfilled, the Commission shall submit a proposal to declare a regional or Union-wide electricity price crisis which shall include the proposed period of validity of the implementing decision.

5. The Council, acting by a qualified majority, may amend a Commission proposal submitted pursuant to paragraph 4 or 8.

6. Where the Council has adopted an implementing decision pursuant to paragraph 1, Member States may, for the duration of the validity of that decision, apply temporary targeted public interventions in price setting for the supply of electricity to small enterprises and medium-sized enterprises. Such public interventions shall:

   (a) be limited to at most 70 % of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction;

   (b) comply with the conditions set out in Article 5(4) and (7);

   (c) where relevant, comply with the conditions set out in paragraph 7 of this Article;

   (d) be designed to minimise any negative fragmentation of the internal market.

7. Where the Council has adopted an implementing decision pursuant to paragraph 1 of this Article, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or to paragraph 6 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:

   (a) the price set for household customers only applies, at most, to 80 % of median household consumption and retains an incentive for demand reduction;

   (b) there is no discrimination between suppliers;

   (c) suppliers are compensated for supplying below cost in a transparent and non-discriminatory manner;

   (d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis;

   (e) measures proposed do not distort the internal electricity market.

8. In due time before the expiry of the period of validity specified pursuant to paragraph 2, the Commission shall assess whether the conditions laid down in paragraph 1 continue to be fulfilled. If the Commission considers that the conditions laid down in paragraph 1 continue to be fulfilled, it shall submit to the Council a proposal to extend the period of validity of an implementing decision adopted pursuant to paragraph 1. Where the Council decides to extend the period of validity, paragraphs 6 and 7 shall apply during such extended period.

The Commission shall continuously assess and monitor the impact resulting from any measures adopted under this Article and publish on a regular basis the results of such assessments.';

(15) in Article 69, paragraph 2 is replaced by the following:

'2. By 31 December 2025, the Commission shall review the implementation of this Directive and shall submit a report to the European Parliament and to the Council. If appropriate, the Commission shall submit a legislative proposal together with or after submitting the report.

The Commission's review shall, in particular, assess the service quality offered to final customers and whether customers, especially vulnerable customers and customers affected by energy poverty, are adequately protected under this Directive.'.

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by … [six months from the date of entry into force of this Directive].

By way of derogation from the first subparagraph of this paragraph, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2, points (2) and (5), by … [24 months from the date of entry into force of this Directive].

They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*